

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

FEB 28 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Closed Captioning and Video) MM Docket No. 95-176
Description of Programming)
)
Implementation of Section 305 of the)
Telecommunications Act of 1996)
)
Video Programming Accessibility)

COMMENTS OF
THE PUBLIC ACCESS CORPORATION OF THE DISTRICT OF COLUMBIA
AND THE DISTRICT OF COLUMBIA OFFICE OF CABLE TELEVISION
IN THE NOTICE OF PROPOSED RULEMAKING

To The Commission:

The Public Access Corporation of the District of Columbia and the District of Columbia Office of Cable Television respectfully submit the following comments in response to the Notice of Proposed Rulemaking, in the above-captioned proceeding, released January 17, 1997 ("NPRM"). The Commission seeks to issue rules implementing Section 713 of the 1934 Communications Act.

Thousands of individuals and organizations produce more than 20,000 hours of *original programming per week* through public, educational and government (PEG) access centers around the nation—this is more than CBS, NBC, ABC and PBS combined. The Public Access Corporation of the District of Columbia (DCTV) and the District of Columbia Office of Cable Television (OCT) are two such centers; DCTV telecasts public and educational programming (over 3,000 original program hours last year) and OCT produces governmental programming.

We support making programming accessible to blind and deaf audiences and welcome the opportunity to present such programming through our facilities. However, requiring PEG access centers to shoulder the financial and administrative burden of providing or requiring that every program be closed-captioned would mean the end of PEG access for everybody—deaf and non-deaf viewers alike. The Public Access Corporation of the District of Columbia and the District of Columbia Office of Cable Television urge the Commission to exempt PEG access centers from any blanket closed-captioning requirements, or as an alternative, to identify and provide for funding sources to allow some PEG programming to be made available to deaf audiences. We believe that cable operators, the U.S. Department of Education, other governmental entities, or private funds and foundations may provide alternative funding sources to allow some PEG programming to be made available to deaf audiences.

PEG programmers and the centers which provide the facilities are unique among all the categories of programmers that would be affected by implementing Section 713. PEG programmers are generally not paid professionals, but individuals volunteering their own time and very limited resources to produce their programs. DCTV for instance, produces no programming at all—the entire schedule of community programming relies entirely on volunteer submissions from individuals, small religious organizations, non-profits and civic associations. It is already a struggle for these producers to support their programs. The volunteer time commitment is extensive. And, in addition, while DCTV provides training, equipment and editing facilities, it cannot do so without charging some minimal fees and requiring producers to purchase their own videotape. However minimal the fees may be, the costs of producing programs do add up. Placing an additional responsibility for closed captioning on access program producers is not a realistic expectation, and would severely limit the speakers in this important community forum to

No. of Copies rec'd 019
List ABCDE

those who could afford, as a conservative estimate, \$1,000 per hour of program captioning. Essentially, requiring that PEG volunteer producers close-caption their programming at their own expense would contradict the purpose of PEG access altogether, converting free channel access into access at \$1,000 per hour. DCTV has no individuals or organizations that provide programming that can afford such an entry-level requirement.

Additionally, unlike the other categories of programmers which are specifically marketed to reach the broadest possible audience (even with a message to a narrowly focused audience), on PEG channels narrowcasting, that is, programming to reach a special audience that is not served by other television media, is common. PEG channels were set aside for the very reason that individuals must have such a forum in order to participate in their communities and their own self-governance, and bring their unique perspectives to the whole marketplace of ideas which drives these societal responsibilities. Thus, for example, ethnic groups which use English but are interested in preserving their language and cultural heritage, and non-English speaking minorities, including people who communicate solely in American Sign Language (which is a separate and distinct language), commonly use public and educational access television. The other categories of programmers which implementation of Section 713 affects for the most part do not serve these or similarly special groups on any regular basis. PEG channels, however, regularly accommodate and support programmers and viewers from a wide diversity of minority voices. These program producers would be especially burdened by the additional requirement and expense that only they would have—that is, to translate their programs for captioning. For programs in some languages that have the trait of polysynthesis¹, especially when the grammatic construction is reflective of a very different cognitive structure than that which is the foundation of English², translation is a particularly difficult task. For instance, American Sign Language, other international sign languages and most North American Indian languages³ are difficult to translate well for captioning. The effect of requiring captioning for these and similar groups would be to take the use of public and educational access channels well out of their reach, even if captioning were funded, since the translation itself would not necessarily be funded.

Another important consideration regards governmental programming. It is important to note that, in general, the greatest share of programming hours are live and taped meetings of local jurisdictional bodies, such as city, town or county councils or supervising boards. The meetings which OCT transmits live with subsequent tape replays last anywhere from two to fifteen hours in length. Captioning live transmissions which cannot be transcribed in advance are particularly difficult and expensive. Other categories of programmers which implementation of Section 713 affects on the whole do very little, if any, live programming anymore. On governmental access channels, live transmissions of the elected representatives at work are a staple of the local community and a necessity of participatory democracy. OCT has a budget of approximately \$200,000 devoted to government programming. At a conservative estimate of \$2500 per hour of the live captioning expense associated with Council hearings alone, the public would be able to view only 80 hours of hearings in a year, eliminating over 1,000 hours per year of the remaining hearings, not to mention *all* other programming or information which might be provided. The practical effect of an unfunded captioning requirement thus is directly counter to the mission of PEG itself as a functional communications system in a participatory democracy.

The argument might be made that it should not be the individual PEG producers who are responsible for meeting captioning requirements, but the PEG access centers themselves. The Commission has already taken special note of the financial hardship problems of PEG access centers. We respectfully submit further information along this line for the Commission's consideration.

The annual budget for DCTV is around \$500,000. This is not a programming budget; the amount encompasses the entire operation of the center including rent, insurance, salaries, equipment maintenance, telecasting costs,

¹ Polysynthesis is the expression of complicated ideas within a single word or image, which contains many separate meaningful elements or morphemes

² The Whorf-Sapir hypothesis (also called the Whorf or Whorfian hypothesis) was derived from extensive study of customs, folklore, speech behavior, language categories, grammatical structures and historical relationships of the native languages of the United States, including traditional oral literatures that were transmitted by native speakers from memory. The hypothesis states that each language shapes the view of reality of its speakers, and that therefore no two cultures share the same understanding of the world. This relativistic conception is diametrically opposed to that of universal grammar, which holds that languages have all their basic features in common and are thus easily translatable.

³ There are approximately 200 North American Indian languages.

communications, and all capital purchases (See Attachment A: Summary Budget). Beyond the 3,000 hours of original programming per year telecast, an additional estimated 1,500 hours of programs are submitted which are wait-listed for a timeslot. Thus, the center would be responsible for captioning a total of 4,500 hours of original programming, with the amount continuing to increase each year. For illustrative purposes, assuming no live programs are telecast requiring captioning, the total cost using the same conservative estimate of \$1,000 per program hour would be approximately \$450,000. This amount leaves only about \$50,000 for all salaries, rent, equipment and support for the producers, telecasting the programs, and training, not to mention capital replacement. Telecasting operations for one year alone cost \$152,352 in Fiscal Year 1996 and \$143,308 in Fiscal Year 1995 (See Attachment B: Financial Statement of Activity). There would be no way to additionally meet the locally legislated mandate to also provide "training and experience in the field of telecommunications" or support continued efforts of the volunteer producers to continue to create their programs. As a practical matter, a requirement mandating captioning of PEG programming would require that DCTV close its doors, and OCT virtually cease to bring the government to the community.

We strongly support the rights of deaf viewers to have access to PEG access programming. However, we must ask the Commission to require captioning only when an outside funding source makes such captioning financially possible.

Respectfully Submitted,

Nantz Rickard
Executive Director
Public Access Corporation of the District of Columbia
1400 20th Street, N.W.; Suite G-2
Washington, DC 20036

Doreen Thompson
Executive Director
District of Columbia Office of Cable Television
2217 14th Street, N.W.
Washington, DC 20009

Public Access Corporation Of D.C.

ATTACHMENT A

	PROP. FY 97
REVENUE	
Support from Cable Company	440,196
Interest	15,000
Membership	22,260
Equipment Rental	14,730
Fundraising/Underwriting	10,000
Accounts Receivable	-
FY Carry Over	(8,235)
Production Services Net Revenue	25,000
Training Net Revenue	12,363
Videotape Net Revenue	6,000
Federal Tax Refund	
Sale Equipment	
A.Harden Agreement	12,000
Total	549,314
EXPENDITURES	
FACILITY (rent, insurance, security, other costs)	63,844
PERSONNEL (salaries, benefits, 1099, health)	381,393
PROFESSIONAL FEES (legal, audit, fndrsng)	28,700
COMMUNICATIONS (phone, printing, postage)	24,414
SUPPLIES	10,302
OTHER	12,575
REPAIR	7,000
EQUIPMENT	9,000
	537,228
Revenue minus expenses or (deficit)	12,086

PUBLIC ACCESS CORPORATION OF THE DISTRICT OF COLUMBIA

Statements of Activity

Years ended June 30, 1996 and 1995

	1996	1995
Revenue:		
Direct support from cable company	\$ 432,315	408,102
Equipment rental and production services	46,430	50,340
Tape sales	9,942	12,098
Instruction fees	5,237	8,110
Membership fees	16,105	12,985
Interest	12,405	12,279
Other	18,223	3,516
Total revenues	540,657	507,430
Expenses:		
Programming	152,352	143,308
Production	182,936	161,130
Management and general	168,130	144,027
Total expenses	503,418	448,465
Change in unrestricted net assets	37,239	58,965
Net assets at beginning of year (note 2)	405,948	346,983
Net assets at end of year	\$ 443,187	405,948

See accompanying notes to financial statements.